IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CRIMINAL REVISION APPLICATION No 504 of 1999

For Approval and Signature:

Hon'ble MR.JUSTICE H.H.MEHTA

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : YES

2. To be referred to the Reporter or not? :

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

JAXIBHAI GOVABHAI DANTANI

Versus

NABHABHAI KHODABHAI RAVAL

Appearance:

MS KRUTI J VORA for Petitioner

MR UM SHASTRI for opponents No. 1 to 6

MR BY MANKAD, A.P.P. for opponent No. 7

CORAM : MR.JUSTICE H.H.MEHTA

Date of decision: 13/12/2000

ORAL JUDGEMENT

Rule. Service of rule is waived by Mr. U.J. Shashtri leanred advocate for the revision opponents no. 1 to 6. Service of Rule is also waived by Mr. B.Y. Mankad learned A.P.P. for the revision opponent no.7. At the request of the learned advocates for both the

parties, this Criminal Revision Application is taken up for final hearing today.

2. Learned advocate for both the parties jointly submitted that the impugned order dated 31-7-1999 passed below the application exh. 12 submitted by the accused in Criminal Case no.4127 of 1998 which was pending on the file of the learned Judicial Magistrate, First Class, Gandhinagar, be set aside without assigning any reason in the order of this Court.

3. I have heard the learned advocates for both the parties and on going through the impugned order challenged in this criminal revision application, this Court is of the view that the impugned order is required to be set aside because the impugned order has been passed without affording any opportunity of being heard to the complainant. Admittedly, the complainant was absent on 31-7-1999 and the learned Magistrate passed an impugned order directing the complainant to pay Rs.500/as compensation to the accused without hearing the complainant.

4. In view of what is stated hereinabove, an impugned order dated 31-7-1999 passed below an application exh. 12 filed in Criminal Case No. 4127/1998 is set aside with a direction to remand that application exh. 12 to the Chief Judicial Magistrate, Ahmedabad (Rural) at Mirzapur with a direction to decide the said application exh. 12 afresh strictly on merits in accordance with law, after affording full opportunity of being heard to all the concerned parties including the complainant and without being influenced by the order of this Court as well as the order passed below the application exh. 12 which is challenged in this present Criminal Revision Application. The revision - petitioner is directed to give full cooperation to the learned Chief Judicial Magistrte, Ahmedabad (Rural) at Mirzapur, for expeditious disposal of the case and he shall invariably remain present before the Court on every adjourned date.

5. In view of Above, this Criminal Revision Application is allowed. Rule is made absolute to the aforesaid extent.

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/JVSatwara/